

**UNITED STATES DISTRICT COURT**  
**Northern DISTRICT OF NEW YORK**

Jarrett BANYAN

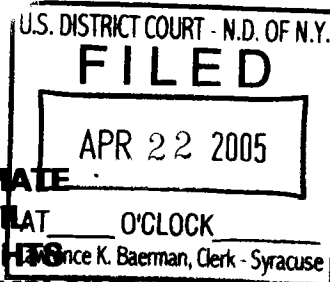
**Plaintiff(s)**

**vs.**

SUNY Upstate University Hospital

**Defendant(s)**

Doc. John Halverson, M.D.



**Civil Case No.:**

6:05 CV 500  
 DNH/DEP

Plaintiff(s) in the above-captioned action, allege(s) as follows:

**JURISDICTION**

1. This is a civil action seeking relief and/or damages to defend and protect the rights guaranteed by the Constitution of the United States. This action is brought pursuant to 42 U.S.C. § 1983. The Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1343(3) and (4) and 2201.

**PARTIES**

2. **Plaintiff:** Jarrett BANYAN 03A2859  
**Address:** Midstate Correctional Facility  
 Po Box 2500 Marcy, New York  
 13403

Additional Plaintiffs may be added on a separate sheet of paper.

3. a. **Defendant:** SUNY Upstate med. university  
**Official Position:**  
**Address:** SUNY Upstate medical university  
 Hospital, 750 East Adams Street  
 Syracuse, New York 13210

b. Defendant: John Halverson, MD  
Official Position: Surgeon

Address: Supra  
\_\_\_\_\_  
\_\_\_\_\_

c. Defendant: \_\_\_\_\_  
Official Position: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Additional Defendants may be added on a separate sheet of paper.

4. **PLACE OF PRESENT CONFINEMENT**

a. Is there a prisoner grievance procedure at this facility?  
☒ Yes                      ( ) No

b. If your answer to 4(a) is YES, did you present the facts relating to your complaint in this grievance program?

( ) Yes                      ☒ No

If your answer to 4(b) is YES:

(i) What steps did you take?

\_\_\_\_\_  
\_\_\_\_\_

(ii) What was the **final** result of your grievance?

\_\_\_\_\_  
\_\_\_\_\_

If your answer to 4(b) is NO:

Why did you choose to not present the facts relating to your complaint in the prison's grievance program?

This complaint is not against  
N.Y.D.O.C and is therefore non grievable

c. If there is no grievance procedure in your institution, did you complain to prison authorities about the facts alleged in your complaint?

( ) Yes ( ) No

If your answer to 4(c) is YES:

(i) What steps did you take?

\_\_\_\_\_  
\_\_\_\_\_

(ii) What was the final result regarding your complaint?

\_\_\_\_\_  
\_\_\_\_\_

If your answer to 4(c) is NO:

Why did you choose to not complain about the facts relating to your complaint in such prison?

\_\_\_\_\_  
\_\_\_\_\_

5.

### PREVIOUS LAWSUITS

a. Have you ever filed any other lawsuits in any state and federal court relating to your imprisonment?

( ) Yes ☒ No

b. If your answer to 5(a) is YES you must describe any and all lawsuits, currently pending or closed, in the space provided on the next page.

For **EACH** such lawsuit, provide the following information:

i. Parties to previous lawsuit:

Plaintiffs:

Defendants:

ii. Court (if federal court, name District; if state court, name County:

iii. Docket number: \_\_\_\_\_

iv. Name of Judge to whom case was assigned:

v. Disposition (dismissed? on appeal? still pending?)

vi. Approximate date of filing prior lawsuit:

vii. Approximate date of disposition:

6.

### FACTS

Set forth the facts of your case which substantiate your claim of violation of your civil and/or Constitutional rights. List the events in the order they happened, naming defendants involved, dates and places.

**Note: You must include allegations of wrongful conduct as to EACH and EVERY defendant in your complaint.** (You may use additional sheets as necessary.)

While residing at Mid-State Corr., Fac., On June 23, 2003  
I was referred to SUNY Upstate medical Center for  
Complaint of Stomach Problems. Dr John Halverson, Md.  
Received this referral; after examination his conclusion  
was "Incisional Hernia." During interview above doctor  
informed Claimant of his placing a mesh lining in his  
Stomach - covering it entirely - so there wouldn't re-occurrence

operation was done and completed on / About Sept 11, 2003  
 Claimant remained in hospital until Sept 19, 2003. No Follow  
 up or after care was given. Sometime in 2004 claimant  
 started experiencing alot of pain and discomfort in his  
 stomach. After constant complaining and going to f.c.,

7.

### CAUSES OF ACTION

**Note: You must clearly state each cause of action you assert in this lawsuit.**

#### FIRST CAUSE OF ACTION

Suny Upstate medical university Hospital is soley  
 responsible for its medical staff and any, and all medical  
 procedure's done on its premissis. To Shoulder responsi-  
 bility for its doctor and eventual negligent procedure..  
 AS well as over looking complaint filed against  
 Dr. Halverson.

#### SECOND CAUSE OF ACTION

Doctor John Halverson be held accountable for  
 his negligent operation; to which scarring, pain  
 and psychological pain exist from his conduct.  
 And not fully doing procedure; to which second  
 and same operation was needed.

#### THIRD CAUSE OF ACTION

8. Plaintiff(s) demand(s) a trial by  
Jury -or- Court  
(Circle only one).

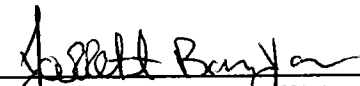
9. PRAYER FOR RELIEF

WHEREFORE, plaintiff(s) request(s) that this Court grant the following relief:

Claimant request twenty five million dollars  
against both defendants for medical malpractice.  
twenty-five million dollars for physical scarring  
pain, and suffering - past and present. future medical  
expenses, cosmetic surgery (removal of scarring and  
mental anguish, stress ... Trial by Jury.

I declare under penalty of perjury that the foregoing is true and correct.

DATED: April 19, 2005

  
Signature of Plaintiff(s)  
(all Plaintiffs must sign)

### Cont of Facts.

Infirmity. In August 2004 Claimant was seen by Fac., Medical Staff - Dr. Marvin S Rabinowitz. Said doctor scheduled Claimant for Cat Scan to investigate Stomach Pains. Said doctor also scheduled Claimant to see another Surgical Specialist at SUNY Up State Medical University Hospital.

Claimant was subsequently seen by one Doctor. Richard J. Wells, who scheduled Claimant for Cat Scan to learn if in Fact Hernia had returned. On/about Sept 28, 2004 Cat Scan was done and Finding(s) given Hernia had returned. This being Confirmed Dr. Rabinowitz Re Scheduled me to see Dr. Wells Md. at Walsh Clinic to sign permission slip for Surgical Procedure Removal of hernia. Prior to Surgery Claimant and Dr. Wells, Md spoke; to wit he stated "If former Dr. John Halverson, Md had properly performed procedure - covering entire Stomach lining with mesh this upcoming operation would not be needed again." Said Doctor also stated he would do this, so no future problems of this wouldn't re-occur... Fac., Doctor Rabinowitz stated to Claimant. "He in the Past have Filed medical complaint(s) against Dr. Halverson, Md. for negligence with medical procedure(s) done on other inmate's." Said Complaints was Filed with SUNY Upstate Medical University Hospital. On/about Nov 15, 2004 Claimant Second operation was done on Claimant. On/about Jan 26, 2005 Claimant received follow up medical review by Fac Doctor. Rabinowitz. To this day Claimant bares initial Scarring vertically along his Stomach, abdominal pain, Psychological Stress, and every two months must see Surgeon to insure no recurrence of Injury.

**AFFIDAVIT OF SERVICE BY MAIL**

STATE OF NEW YORK     )  
COUNTY OF ONEIDA    )     SS.:

I Jarrett BANYAN, being duly sworn, deposes and says:

That I am the Petitioner, in the within proceeding, and that I am over eighteen (18) years of age; reside at Midstate Correctional Facility, PO Box 2500, Marcy, New York 13403, and in the County of Oneida. That on the 19 day of April, 2005,

I served a true copy of the attached:

Affidavit of Service AND Verification w/ Complaint  
under Article 7883 and Poor Person Application

upon the concerned party/parties at the following addresses mentioned below, by placing said copies in a post-paid properly addressed wrapper in a official depository under the care and custody of the United States Postal Service within the State of New York.

DATED: 4/19-2005

TO: Northern District of New York

100 South Clinton Street, P.O. Box 1798  
Syracuse, New York 13261-7198

Sworn to before me this

19 day of April, 2005.  
Joseph A. Jordan  
NOTARY PUBLIC STATE OF NEW YORK

Jarrett Banyan  
Signature

JOSEPH A. JORDAN  
Notary Public, State of New York  
Reg. # 01JO6102656  
Appointed in Oneida County  
My Commission Expires December 8, 2007.



V E R I F I C A T I O N

STATE OF NEW YORK )  
 ) SS.:  
COUNTY OF ONEIDA )

I, Jarrett Banyan, being duly sworn, deposes and says:

I am the petitioner in this within proceeding; I have read the foregoing petition and know the contents thereof; that the same is true to my own knowledge, except as to matters therein stated to be upon information and belief, and as to those matters I believe them to be true.

Jarrett Banyan

SWORN TO BEFORE ME THIS

19 DAY OF April, 2005,

Joseph A. Jordan  
NOTARY PUBLIC, N.Y.S.

JOSEPH A. JORDAN  
Notary Public, State of New York  
Reg. # 01JO6102656  
Appointed in Oneida County  
My Commission Expires December 8, 2007